

FaegreBD.com



USA • UK • CHINA

Andrew L. Campbell
Partner
andrew.campbell@FaegreBD.com
Direct +1 317 237 1011

Faegre Baker Daniels LLP
300 North Meridian Street • Suite 2700
Indianapolis • Indiana 46204-1750
Main +1 317 237 0300
Fax +1 317 237 1000

December 21, 2018

VIA ECF

The Honorable Susan D. Wigenton
 United States District Judge
 U.S. District Court for the District of New Jersey
 Martin Luther King, Jr. Federal Building & U.S. Courthouse
 50 Walnut Street
 Newark, New Jersey 07102

**Re: *In re: Zimmer Durom Cup Products Liability Litigation;*
Master Docket, 2:09-cv-04414-SDW-SCM (“Master Docket”)**

Dear Judge Wigenton:

As Your Honor is aware, the Zimmer defendants (collectively, “Zimmer”) and Claimants’ Liaison Counsel (“CLC”) entered into the U.S. Durom Cup Settlement Program Agreement (“Settlement Agreement”) on February 11, 2016.

On May 13, 2016, to effectuate the Settlement Agreement, Your Honor entered a Case Management Order Regarding Settlement Agreement (“Settlement Order”) [Dkt. 925], which stayed (1) CMO No. 1, Section XV. Settlement Period, and (2) subsequent Case Management Orders that address Section XV. The Settlement Order also ordered that “All plaintiffs who currently have cases filed in this MDL, and all future plaintiffs who file cases in this MDL no later than May 31, 2016, shall participate in the process established by the Settlement Agreement, including but not limited to satisfying all deadlines established in the Settlement Agreement. If any individual plaintiff does not participate in the process established by the Settlement Agreement, including but not limited to satisfying all deadlines established in the Settlement Agreement, their individual case may be the subject of a dismissal motion by Zimmer.” [Dkt. 925, ¶ 2.] On May 1, 2018, the Court revised the Settlement Order to include all plaintiffs who filed their case after May 31, 2016, as well as all future plaintiffs. [See Order at Dkt. 975.]

Zimmer and CLC have been working together to resolve Durom Cup cases pursuant to the Settlement Agreement. Under the Court’s direction, the U.S. Durom Cup Global Settlement Program has been very successful; however, there are a few remaining cases on the Master Docket that may require additional judicial assistance.

The Honorable Susan D. Wigenton

-2-

December 21, 2018

To resolve the remaining cases on the Master Docket, we write on behalf of Zimmer to request leave to file Motions for Orders to Show Cause (“MOSC”), Motions to Dismiss (“MTD”), including jurisdictional motions based on forum non conveniens, and motions requesting court-assisted mediation. Specifically, Zimmer requests leave to file MOSC for (1) cases in which a Durom Cup was not implanted, and (2) for any plaintiff who has not had the Durom Cup revised. Zimmer also requests leave to file MTD for (1) any plaintiff who has not submitted the required documentation under the Settlement Agreement and the May 13, 2016, and May 1, 2018, Settlement Orders, and (2) plaintiffs whose Durom Cup was implanted outside of the United States. Finally, Zimmer requests leave to file motions requesting court-assisted mediation in select cases for which either only a partial mediation occurred, or Zimmer believes that court-assisted mediation may lead to resolution.

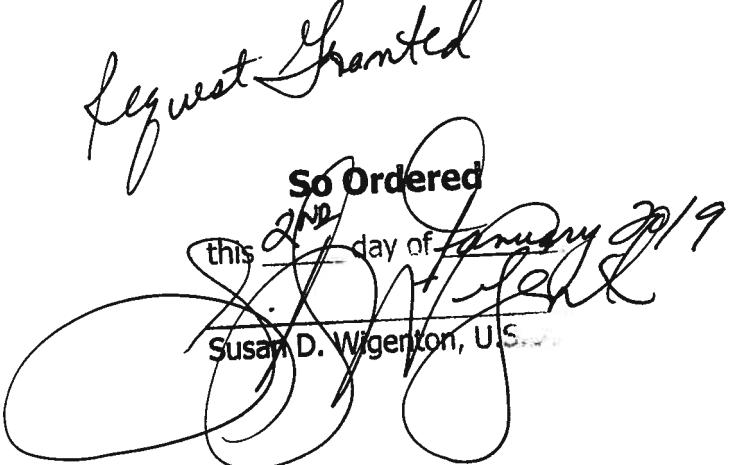
CLC consents to Zimmer’s request for leave. Zimmer will continue to work with CLC and plaintiff’s counsel to resolve these remaining cases.

Very truly yours,



Andrew L. Campbell

CC: Claimants’ Liaison Counsel



Request Granted
So Ordered
this 2nd day of January 2019
Susan D. Wigenton, U.S.